

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

3W POWER USA, INC.)
VS.) Civil No. 4:15CV677
POWER MAX CO., LTD.)

EXCERPT OF STATUS CONFERENCE

BEFORE THE HONORABLE RICHARD A. SCHELL

UNITED STATES DISTRICT JUDGE

MARCH 21, 2017

APPEARANCES

FOR THE PLAINTIFF:

Mr. Baxter Ward Banowsky
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FOR THE DEFENDANT:

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COURT REPORTER:

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Proceedings recorded by mechanical stenography, transcript
produced by CAT

1 (Proceedings were held, then a recess, and the following is a
2 transcript of the proceedings held after the recess)
3

4 THE COURT: Let's go back on the record on 3W
5 Power USA vs. Power Max, cause number 4:13CV677, I see
6 the lawyers are back in the courtroom.

7 Mr. Banowsky?

8 MR. BANOWSKY: Yes, Your Honor.

9 We have finished talking. And what our current
10 plan is, if the Court will indulge us -- the first
11 payment under the settlement agreement is due at the end
12 of the month. We need to get our principals at CT
13 Corporation and at -- excuse me, at CT and at 3W Power,
14 those principals need to come together because the
15 dispute is primarily on that side of the table. It's not
16 really with Mr. Brownlie's client. We've agreed to try
17 and get that done ASAP so we can use the time between now
18 and when that first payment comes due to determine
19 whether or not there's going to be an issue with respect
20 to proceeding with the settlement.

21 I think what we would like to do is figure out as
22 quickly as possible if we can't just go forward with the
23 settlement. We have some logistical difficulties because
24 my clients are in Germany. And if we wanted to get
25 Mr. Brownlie's clients involved -- which I don't know

1 that we do at this point -- they are in Japan obviously.
2 Mr. Brownlie has kindly offered his firm's services with
3 a -- they have a virtual conferencing center which will
4 allow us in the time that's presented to bring everybody
5 together virtually in the same place. We are still
6 discussing whether or not we think it would be helpful to
7 have a mediator, depending on how promptly the parties
8 get together. And if we -- and so with the Court's
9 indulgence we would like to just decide whether or not to
10 have a mediator. And if we do, then we will do that from
11 a private perspective. Hire a mediator to help us
12 resolve the issues.

13 But we should be able to report back before the
14 first payment is due at the end of the month, whether or
15 not the case is settled or if we're going to have to
16 proceed with the motions on the Court's docket.

17 THE COURT: Okay. The end of the month would be
18 Friday, March 31st. So can you give me -- can you file a
19 status report by the close of business on Friday,
20 March 31st?

21 MR. BANOWSKY: Absolutely, Your Honor.

22 MR. BROWNIE: Yes, Your Honor.

23 THE COURT: Okay. Now I think I heard on the
24 record that Mr. Brownlie said an agreement had been
25 reached and signed by your client; is that correct,

1 Mr. Brownlie?

2 MR. BROWNLIE: Yes, Your Honor.

3 THE COURT: And Mr. Banowsky, you said that your
4 client had agreed to it and signed it?

5 MR. BANOWSKY: That's correct, although this
6 executed agreement has never been delivered to
7 Mr. Brownlie.

8 THE COURT: It's been signed by both parties, but
9 a copy -- executed copy by both parties, but not
10 delivered to Mr. Brownlie.

11 MR. BANOWSKY: Correct. My client signed it, but
12 not -- but -- but in the -- in the interim we had the
13 dispute. And so my client signed it in the event that
14 the dispute was resolved, then we would be able to then
15 immediately have access to the document to execute the
16 settlement. But my client has accepted the terms, it
17 just hasn't -- because of the objection that was raised
18 by CT, it hasn't been, from his perspective, taken the
19 last step of consummating by delivering. Whether or not
20 that last step is necessary for a binding agreement or
21 not binding agreement, I don't know.

22 THE COURT: I don't either. I would have to have
23 briefing on that.

24 MR. BANOWSKY: I would have to do the briefing on
25 it, Your Honor. I'm hoping not to have to do that.

1 THE COURT: Okay. Great. I'll look forward to
2 your status report to the Court by the close of business
3 on March 31st then.

4 MR. BROWNLIE: Thank you, Your Honor.

5 THE COURT: Okay. Anything further?

6 MR. BANOWSKY: Nothing further, Your Honor. May
7 we be excused?

8 THE COURT: Yes.

9 MR. BANOWSKY: Thank you.

10 THE COURT: Thank you.

11 (End of proceedings)

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1 I certify that the foregoing is a correct transcript from the
2 record of proceedings in the above-entitled matter.

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4 /s/ Lori Barnett
5 COURT REPORTER

3/23/17
DATE

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